

Assembly Bill No. 1220

CHAPTER 373

An act to amend Sections 12017 and 13013 of the Fish and Game Code, to amend Sections 8670.3, 8670.29, 8670.47.5, 8670.48, 8670.48.5, 8670.49, 8670.50, 8670.53.1, 8670.53.2, 8670.53.3, 8670.53.4, 8670.53.5, 8670.53.7, 8670.53.8, and 8670.53.95 of, and to repeal Section 8670.56.7 of, the Government Code, and to amend Sections 46054 and 46653 of the Revenue and Taxation Code, relating to oil spills, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 2007. Filed with
Secretary of State October 10, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1220, Laird. Oil spill response fund.

(1) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act imposes a uniform oil spill response fee, as specified, during any period that the Oil Spill Response Trust Fund contains less than a designated amount, as prescribed, adjusted for inflation. The administrator is authorized to raise the fee only upon making certain findings regarding a calamitous or unforeseen event that will deplete the fund. The money in the fund is continuously appropriated for specified purposes and the fees, and interest on deposits in the fund, may be expended for specified purposes. Existing law authorizes the Treasurer to purchase financial security, in a designated amount, which may be drawn upon by the administrator of the fund. Existing law requires the Treasurer to make necessary financial arrangements to obtain the money needed to pay for costs of an oil spill, in excess of money in the fund.

This bill would specify the procedures for the purchase and repayment of that financial security when moneys are borrowed by the Treasurer or the administrator. The bill would authorize the Treasurer to obtain financial security in a form which, in the event of an oil spill, may be drawn upon immediately by the administrator, upon making certain determinations. The bill would additionally impose the uniform oil spill response fee when the administrator determines that revenue is necessary to repay those borrowings or repay any draw on a financial security obtained by the Treasurer. The administrator would instead be authorized to increase the fee upon a finding that there are existing demands for expenditures from the fund that will deplete the fund. The Treasurer would be additionally authorized to enter any financial arrangement necessary or appropriate to refund any draw by the administrator, and the bill would require that borrowing to be reimbursed or repaid from the fund.

The bill would require the administrator, following an oil spill, in consultation with the Treasurer, to notify the Governor if the administrator determines that it is likely that there will not be sufficient moneys in the fund to pay expected costs in a timely manner. The bill would require the Governor, upon notification, to request the federal government to pay those costs, and if sufficient federal funds are not available within 5 days, the Governor would be required to make a written request to the Treasurer to borrow and deposit in the fund the amount necessary, as determined by the administrator, to pay those estimated excess response costs. The bill would provide that the party responsible for the spill is liable to the state for all money borrowed by the Treasurer for the purpose of responding to the oil spill.

The bill would appropriate from the fund moneys necessary to pay the principal, interest, premium, if any, fees, costs, or charges in connection with any standby arrangement or other financial arrangement, including bonds or obligations.

The bill would require the State Board of Equalization to cease collecting, and to resume collecting, the fee, in conformance with these changes, and to provide refunds, as specified.

(2) The act requires every owner or operator of specified marine facilities and owners or operators of certain vessels to prepare and implement an oil spill contingency plan containing specified provisions that has been submitted to, and approved by, the administrator, including provisions for training and drills at least annually on all elements of the plan.

This bill would revise the requirements of the plan to instead require the plan to include provisions for training and drills on elements of the plan at least annually and provisions for subjecting all elements of the plan to drills or tests, as specified by the administrator, at least once every 3 years.

(3) The act provides that a nonprofit maritime association that provides spill response services pursuant to an oil spill contingency plan approved by the administrator, and the association's officers, directors, members, and employees have limited liability, pursuant to specified requirements.

This bill would repeal that limited liability.

(4) The bill would declare that it would take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 12017 of the Fish and Game Code is amended to read:

12017. (a) Notwithstanding Section 13001, any recovery or settlement of money received pursuant to the following sections shall be deposited in the Fish and Wildlife Pollution Account:

(1) Section 2014.

(2) Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division 6.

(3) Section 12015 or 12016.

(4) Chapter 4 (commencing with Section 151) of Division 1.5 of the Harbors and Navigation Code.

(5) Section 13442 of the Water Code.

(6) Proceeds or recoveries from pollution and abatement actions.

(b) Moneys in the account are continuously appropriated to the department, except as provided in Section 13230.

(c) Funds in the account shall be expended for the following purposes:

(1) Abatement, cleanup, and removal of pollutants from the environment.

(2) Response coordination, planning, and program management.

(3) Resource injury determination.

(4) Resource damage assessment.

(5) Economic valuation of resources.

(6) Restoration or rehabilitation at sites damaged by pollution.

(d) Notwithstanding subdivision (c), funds in the account in excess of one million dollars (\$1,000,000) as of July 1 of each year may also be expended for the preservation of California plants, wildlife, and fisheries.

(e) Funds in the account may be expended for cleanup and abatement if a reasonable effort has been made to have the responsible party pay cleanup and abatement costs and funds are not available for disbursement from the emergency reserve account of the Toxic Substances Control Account in the General Fund pursuant to Section 25354 of the Health and Safety Code.

(f) The department may use funds in the account to pay the costs of consultant contracts for resource injury determination or damage assessment during hazardous material or oil spill emergencies. These contracts are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

SEC. 2. Section 13013 of the Fish and Game Code is amended to read:

13013. (a) Appropriations from either the Oil Pollution Administration Subaccount or the Hazardous Materials Administration Subaccount shall not exceed one third of the maximum fund level established under Section 13012 in order to maintain a prudent reserve for future appropriations.

(b) If the director or his or her designee expends funds from the prudent reserve established pursuant to subdivision (a) for activities authorized under subdivision (b) of Section 13230, the director or the director's designee shall ensure that there are adequate funds remaining in those subaccounts to carry out their purposes. Expenditures from the prudent reserve shall be repaid in part, or in full, from any funds received pursuant to Section 13011 until those reserves are fully reimbursed.

(c) The director or his or her designee, shall recover from the spiller, responsible party, or, in the absence of those responsible parties, from a particular pollution abatement or remediation account, all expenditures paid from the accounts established pursuant to subdivisions (b) and (d) of Section 13230, and all costs incurred by the department arising from the administration and enforcement of applicable pollution laws. The director

or his or her designee may request, and a district attorney, city attorney, or other prosecuting agency, as part of a prosecution or negotiation, may allege a claim for, these costs and expenditures and shall deposit any recoveries into the fund from which they were expended.

(d) The director or his or her designee shall ensure that there are adequate funds in the accounts and subaccounts specified in this section to carry out their purposes.

SEC. 3. Section 8670.3 of the Government Code is amended to read:

8670.3. Unless the context requires otherwise, the following definitions shall govern the construction of this chapter:

(a) “Administrator” means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4.

(b) (1) “Best achievable protection” means the highest level of protection that can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The administrator’s determination of which measures provide the best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering all of the following:

(A) The protection provided by the measure.

(B) The technological achievability of the measure.

(C) The cost of the measure.

(2) The administrator shall not use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures provide the best achievable protection. The administrator shall instead, when determining which measures provide best achievable protection, give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(c) (1) “Best achievable technology” means that technology that provides the greatest degree of protection, taking into consideration both of the following:

(A) Processes that are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development.

(B) Processes that are currently in use anywhere in the world.

(2) In determining what is the best achievable technology pursuant to this chapter, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(d) “Dedicated response resources” means equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the timeframes for which the equipment and personnel are rated.

(e) “Environmentally sensitive area” means an area defined pursuant to the applicable area contingency plans, as created and revised by the Coast Guard and the administrator.

(f) “Local government” means any chartered or general law city, chartered or general law county, or any city and county.

(g) (1) “Marine facility” means any facility of any kind, other than a tank ship or tank barge, that is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility is either of the following:

(A) Subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

(B) Placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank.

(2) For the purposes of this chapter, “marine facility” includes a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform.

(3) For the purposes of this chapter, “marine facility” does not include a small craft refueling dock.

(h) (1) “Marine terminal” means any marine facility used for transferring oil to or from a tank ship or tank barge.

(2) “Marine terminal” includes, for purposes of this chapter, all piping not integrally connected to a tank facility, as defined in subdivision (1) of Section 25270.2 of the Health and Safety Code.

(i) “Marine waters” means those waters subject to tidal influence, and includes the waterways used for waterborne commercial vessel traffic to the Port of Sacramento and the Port of Stockton.

(j) “Mobile transfer unit” means a small marine fueling facility that is a vehicle, truck, or trailer, including all connecting hoses and piping, used for the transferring of oil at a location where a discharge could impact marine waters.

(k) “Nondedicated response resources” means those response resources identified by an Oil Spill Response Organization for oil spill response activities that are not dedicated response resources.

(l) “Nonpersistent oil” means a petroleum-based oil, such as gasoline, diesel, or jet fuel, that evaporates relatively quickly and is an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills at a temperature of 645° Fahrenheit, and at least 95 percent of which, by volume, distills at a temperature of 700° Fahrenheit.

(m) “Nontank vessel” means a vessel of 300 gross tons or greater that carries oil, but does not carry that oil as cargo.

(n) “Oil” means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil

refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(o) “Oil spill cleanup agent” means a chemical, or any other substance, used for removing, dispersing, or otherwise cleaning up oil or any residual products of petroleum in, or on, any of the waters of the state.

(p) “Oil spill contingency plan” or “contingency plan” means the oil spill contingency plan required pursuant to Article 5 (commencing with Section 8670.28).

(q) (1) “Oil Spill Response Organization” or “OSRO” means an individual, organization, association, cooperative, or other entity that provides, or intends to provide, equipment, personnel, supplies, or other services directly related to oil spill containment, cleanup, or removal activities.

(2) A “rated OSRO” means an OSRO that has received a satisfactory rating from the administrator for a particular rating level established pursuant to Section 8670.30.

(3) “OSRO” does not include an owner or operator with an oil spill contingency plan approved by the administrator or an entity that only provides spill management services, or who provides services or equipment that are only ancillary to containment, cleanup, or removal activities.

(r) “Onshore facility” means any facility of any kind which is located entirely on lands not covered by marine waters.

(s) (1) “Owner” or “operator” means any of the following:

(A) In the case of a vessel, any person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a marine facility, any person who owns, has an ownership interest in, or operates the marine facility.

(C) Except as provided in subparagraph (D), in the case of any vessel or marine facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to an entity of state or local government, any person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the vessel or marine facility immediately beforehand.

(D) An entity of the state or local government that acquired ownership or control of a vessel or marine facility, when the entity of the state or local government has caused or contributed to a spill or discharge of oil into marine waters.

(2) “Owner” or “operator” does not include a person who, without participating in the management of a vessel or marine facility, holds indicia of ownership primarily to protect his or her security interest in the vessel or marine facility.

(3) “Operator” does not include any person who owns the land underlying a marine facility or the facility itself if the person is not involved in the operations of the facility.

(t) “Person” means any individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. “Person” also includes any city, county, city

and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(u) “Pipeline” means any pipeline used at any time to transport oil.

(v) “Reasonable worst case spill” means, for the purposes of preparing contingency plans for a nontank vessel, the total volume of the largest fuel tank on the nontank vessel.

(w) “Responsible party” or “party responsible” means any of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility, or a person or entity accepting responsibility for the vessel or marine facility.

(x) “Small craft” means any vessel, other than a tank ship or tank barge, that is less than 20 meters in length.

(y) “Small craft refueling dock” means a waterside operation that dispenses only nonpersistent oil in bulk and small amounts of persistent lubrication oil in containers primarily to small craft and meets both of the following criteria:

(1) Has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment.

(2) Has total usable tank storage capacity not exceeding 75,000 gallons.

(z) “Small marine fueling facility” means either of the following:

(1) A mobile transfer unit.

(2) A fixed facility that is not a marine terminal, that dispenses primarily nonpersistent oil, that may dispense small amounts of persistent oil, primarily to small craft, and that meets all of the following criteria:

(A) Has tank storage capacity greater than 20,000 gallons but not more than 40,000 gallons in any single storage tank or storage tank compartment.

(B) Has total usable tank storage capacity not exceeding 75,000 gallons.

(C) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

(aa) “Spill” or “discharge” means any release of at least one barrel (42 gallons) of oil into marine waters that is not authorized by any federal, state, or local government entity.

(ab) “State Interagency Oil Spill Committee” means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(ac) “California oil spill contingency plan” means the California oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(ad) “Tank barge” means any vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(ae) “Tank ship” means any self-propelled vessel that is constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(af) “Tank vessel” means a tank ship or tank barge.

(ag) “Vessel” means any watercraft or ship of any kind, including every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

(ah) “Vessel carrying oil as secondary cargo” means any vessel that does not carry oil as a primary cargo, but does carry oil in bulk as cargo or cargo residue.

SEC. 4. Section 8670.29 of the Government Code is amended to read:

8670.29. (a) In accordance with the rules, regulations, and policies established by the administrator pursuant to Section 8670.28, every owner or operator of a marine facility, small marine fueling facility or mobile transfer unit, prior to operating in the marine waters of the state or where an oil spill could impact marine waters; and every owner or operator of a tank vessel, nontank vessel or vessel carrying oil as secondary cargo before operating in the marine waters of the state, shall prepare and implement an oil spill contingency plan that has been submitted to, and approved by, the administrator pursuant to Section 8670.31. Each oil spill contingency plan shall ensure the undertaking of prompt and adequate response and removal action in case of an oil spill, shall be consistent with the California oil spill contingency plan, and shall not conflict with the National Contingency Plan.

(b) Each oil spill contingency plan shall, at a minimum, meet all of the following requirements:

(1) Be a written document, reviewed for feasibility and executability, and signed by the owner or operator, or their designee.

(2) Provide for the use of an incident command system to be used during a spill.

(3) Provide procedures for reporting oil spills to local, state, and federal agencies, and include a list of contacts to call in the event of a drill, threatened spill, or spill.

(4) Describe the communication plans to be used during a spill.

(5) Describe the strategies for the protection of environmentally sensitive areas.

(6) Identify at least one rated OSRO for each rating level established pursuant to Section 8670.30. Each identified rated OSRO shall be directly responsible by contract, agreement, or other approved means to provide oil spill response activities pursuant to the oil spill contingency plan. A rated OSRO may provide oil spill response activities individually, or in combination with another rated OSRO, for a particular owner or operator.

(7) Identify a qualified individual.

(8) Provide the name, address, telephone, and facsimile numbers for an agent for service of process, located within the state and designated to receive legal documents on behalf of the owner or operator.

(c) An oil spill contingency plan for a vessel shall also include, but is not limited to, all of the following requirements:

(1) Each plan shall be submitted to the administrator at least seven days prior to the vessel entering waters of the state.

(2) Each plan shall provide evidence of compliance with the International Safety Management Code, established by the International Maritime Organization, as applicable.

(3) If the oil spill contingency plan is for a tank vessel, the plan shall include both of the following:

(A) The plan shall specify oil and petroleum cargo capacity.

(B) The plan shall specify the types of oil and petroleum cargo carried.

(4) If the oil spill contingency plan is for a nontank vessel, the plan shall include both of the following:

(A) The plan shall specify the type and total amount of fuel carried.

(B) The plan shall specify the capacity of the largest fuel tank.

(d) An oil spill contingency plan for a marine facility shall also include, but is not limited to, all of the following provisions:

(1) Provisions for site security and control.

(2) Provisions for emergency medical treatment and first aid.

(3) Provisions for safety training, as required by state and federal safety laws for all personnel likely to be engaged in oil spill response.

(4) Provisions detailing site layout and locations of environmentally sensitive areas requiring special protection.

(5) Provisions for vessels that are in the operational control of the facility for loading and unloading.

(6) Provisions for training and drills on elements of the plan at least annually.

(7) Provisions for subjecting all elements of the plan to drills or tests, as specified by the administrator, at least once every three years.

(e) The oil spill contingency plan shall be available to response personnel and to relevant state and federal agencies for inspection and review.

(f) The oil spill contingency plan shall be reviewed periodically and updated as necessary. All updates shall be submitted to the administrator pursuant to this article.

(g) In addition to the regulations adopted pursuant to Section 8670.28, the administrator shall adopt regulations and guidelines to implement this section. The regulations and guidelines shall provide for the best achievable protection of coastal and marine resources. The administrator may establish additional oil spill contingency plan requirements, including, but not limited to, requirements based on the different geographic regions of the state. All regulations and guidelines shall be developed in consultation with the State Interagency Oil Spill Committee and the Oil Spill Technical Advisory Committee.

SEC. 5. Section 8670.47.5 of the Government Code is amended to read: 8670.47.5. The following shall be deposited into the fund:

(a) The fee required pursuant to Section 8670.48.

(b) Any federal funds received to pay for response, containment, abatement, and rehabilitation costs from an oil spill in marine waters.

(c) Any money borrowed by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1) or any draw on the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48.

(d) Any interest earned on the moneys in the fund.

(e) Any costs recovered from responsible parties pursuant to Section 8670.53 and subdivision (e) of Section 8670.53.1.

SEC. 6. Section 8670.48 of the Government Code is amended to read:

8670.48. (a) (1) A uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), shall be imposed upon every person owning petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be remitted to the State Board of Equalization by the terminal operator on the 25th day of each month based upon the number of barrels of petroleum products received during the preceding month.

(2) Every owner of petroleum products is liable for the fee until it has been paid to the state, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(b) Every operator of a pipeline shall also pay a uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), transported into the state by means of a pipeline operating across, under, or through the marine waters of the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of petroleum products so transported into the state during the preceding month.

(c) (1) Every operator of a refinery shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25) for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), received at a refinery within the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of crude oil so received during the preceding month.

(2) The fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer as defined in paragraph (3). The board shall not identify a company as exempt from the fee requirements of this section if that company was reorganized, sold, or otherwise modified with the intent of circumventing the requirements of this section.

(3) For purposes of this chapter, “independent crude oil producer” means any person or entity producing crude oil within this state who performs no refining of crude oil into product, and who possesses or owns no retail gasoline marketing facilities.

(d) Every marine terminal operator shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), that is transported from within this state by means of marine vessel to a destination outside this state.

(e) Every operator of a pipeline shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25), in accordance with

subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), transported out of the state by pipeline.

(f) (1) The fees required pursuant to this section shall be collected during any period for which the administrator determines that collection is necessary for any of the following reasons:

(A) The amount in the fund is less than or equal to 95 percent of the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code.

(B) Additional money is required to pay for the purposes specified in subdivision (k).

(C) The revenue is necessary to repay any draw on a financial security obtained by the Treasurer pursuant to subdivision (o) or any borrowing by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1) including any principal, interest, premium, fees, charges, or costs of any kind incurred in connection with those borrowings or financial security.

(2) The administrator, in consultation with the State Board of Equalization, and with the approval of the Treasurer, may direct the State Board of Equalization to cease collecting the fee when the administrator determines that further collection of the fee is not necessary for the purposes specified in paragraph (1).

(3) The administrator, in consultation with the State Board of Equalization, shall set the amount of the oil spill response fees. The oil spill response fees shall be imposed on all fee payers in the same amount. The administrator shall not set the amount of the fee at less than twenty-five cents (\$0.25) for each barrel of petroleum products or crude oil, unless the administrator finds that the assessment of a lesser fee will cause the fund to reach the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code within four months. The fee shall not be less than twenty-five cents (\$0.25) for each barrel of petroleum products or crude oil if the administrator has drawn upon the financial security obtained by the Treasurer pursuant to subdivision (o) or if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind incurred in connection with those borrowings remain outstanding or unpaid, unless the Treasurer has certified to the administrator that the money in the fund is not necessary for the purposes specified in paragraph (1).

(g) The fees imposed by subdivisions (d) and (e) shall be imposed in any calendar year beginning the month following the month when the total cumulative year-to-date barrels of crude oil transported outside the state by all fee payers by means of vessel or pipeline exceeds 6 percent by volume of the total barrels of crude oil and petroleum products subject to oil spill response fees under subdivisions (a), (b), and (c) for the prior calendar year.

(h) For purposes of this chapter, “designated amount” means the amounts specified in Section 46012 of the Revenue and Taxation Code.

(i) The administrator, in consultation with the State Board of Equalization and with the approval of the Treasurer, shall authorize refunds of any money collected that is not necessary for the purposes specified in paragraph (1)

of subdivision (f). The State Board of Equalization, as directed by the administrator, and in accordance with Section 46653 of the Revenue and Taxation Code, shall refund the excess amount of fees collected to each feepayer who paid the fee to the state, in proportion to the amount that each feepayer paid into the fund during the preceding 12 monthly reporting periods in which there was a fee due, including the month in which the fund exceeded the specified amount. If the total amount of money in the fund exceeds the amount specified in this subdivision by 10 percent or less, refunds need not be ordered by the administrator. Nothing in this section shall require the refund of excess fees as provided in this subdivision more frequently than once each year.

(j) The State Board of Equalization shall collect the fee and adopt regulations implementing the fee collection program. All fees collected pursuant to this section shall be deposited in the Oil Spill Response Trust Fund.

(k) The fee described in this section shall be collected solely for any of the following purposes:

(1) To provide funds to cover promptly the costs of response, containment, and cleanup of oil spills into marine waters, including damage assessment costs, and wildlife rehabilitation as provided in Section 8670.61.5.

(2) To cover response and cleanup costs and other damages suffered by the state or other persons or entities from oil spills into marine waters, which cannot otherwise be compensated by responsible parties or the federal government.

(3) To pay claims for damages pursuant to Section 8670.51.

(4) To pay claims for damages, except for damages described in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant to Section 8670.51.1.

(5) To pay for the cost of obtaining financial security in the amount specified in subdivision (b) of Section 46012 of the Revenue and Taxation Code, as authorized by subdivision (o).

(6) To pay indemnity and related costs and expenses as authorized by Section 8670.56.6.

(7) To pay principal, interest, premium, if any, and fees, charges, and costs of any kind incurred in connection with moneys drawn by the administrator on the financial security obtained by the Treasurer pursuant to subdivision (o) or borrowed by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1).

(8) To pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as incurred by the network of oiled wildlife rescue and rehabilitation stations created pursuant to Section 8670.37.5.

(l) (1) The interest that the state earns on the funds deposited into the Oil Spill Response Trust Fund shall be deposited in the fund and shall be used to maintain the fund at the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code. Interest earned until July 1, 1998, on funds deposited pursuant to subdivision (a) of Section 46012 of the Revenue and Taxation Code, as determined jointly by the

Controller and the Director of Finance, shall be available upon appropriation by the Legislature in the Budget Act to establish, equip, operate, and maintain the network of rescue and rehabilitation stations for oiled wildlife as described in Section 8670.37.5 and to support technology development and research related to oiled wildlife care. Interest earned on the financial security portion of the fund, required to be accessible pursuant to subdivision (b) of Section 46012 of the Revenue and Taxation Code shall not be available for that purpose. If the amount in the fund exceeds that designated amount, the interest not needed to equip, operate, and maintain the network of rescue and rehabilitation stations, or for appropriate technology development and research regarding oiled wildlife care, shall be deposited into the Oil Spill Prevention and Administration Fund, and shall be available for the purposes authorized by Article 6 (commencing with Section 8670.38).

(2) (A) For each fiscal year, consistent with this article, the administrator shall submit, as a proposed appropriation in the Governor's Budget, an amount up to one million five hundred thousand dollars (\$1,500,000), of the interest earned on the funds deposited into the Oil Spill Response Trust Fund, for the purpose of equipping, operating, and maintaining the network of oiled wildlife rescue and rehabilitation stations established pursuant to Section 8670.37.5 and for support of technology development and research related to oiled wildlife care. The remaining interest shall be deposited into the Oil Spill Prevention and Administration Fund pursuant to paragraph (1).

(B) The administrator shall report to the Legislature not later than June 30, 2002, on the progress and effectiveness of the network of oiled wildlife rescue and rehabilitation stations established pursuant to Section 8670.37.5, and the adequacy of the Oil Spill Response Trust Fund to meet the purposes for which it was established.

(C) At the administrator's request, the funds made available pursuant to this paragraph may be directly appropriated to a suitable program for wildlife health and rehabilitation within a school of veterinary medicine within this state, provided that an agreement exists, consistent with this chapter, between the administrator and an appropriate representative of the program for carrying out that purpose. The administrator shall attempt to have an agreement in place at all times. The agreement shall ensure that the training of, and the care provided by, the program staff are at levels that are consistent with those standards generally accepted within the veterinary profession.

(D) The funds made available pursuant to this paragraph shall not be considered an offset to any other state funds appropriated to the program, the program's associated school of veterinary medicine, or the program's associated college or university, and the funds shall not be used for any other purpose. If an offset does occur or the funds are used for an unintended purpose, expenditure of any appropriation of funds pursuant to this paragraph may be terminated by the administrator and the administrator may request a reappropriation to accomplish the intended purpose. The administrator shall annually review and approve the proposed uses of any funds made available pursuant to this paragraph.

(m) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the money in the fund shall be used solely for the purposes specified in subdivision (k).

(n) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer.

(o) The Treasurer shall obtain financial security, in the designated amount specified in subdivision (b) of Section 46012 of the Revenue and Taxation Code, in a form which, in the event of an oil spill, may be drawn upon immediately by the administrator upon making the determinations required by paragraph (2) of subdivision (a) of Section 8670.49. The financial security may be obtained in any of the forms described in subdivision (b) of Section 8670.53.3, as determined by the Treasurer.

(p) Nothing in this section limits the authority of the administrator to raise oil spill response fees pursuant to Section 8670.48.5.

SEC. 7. Section 8670.48.5 of the Government Code is amended to read:

8670.48.5. (a) The administrator may raise the fees specified in Section 8670.48 to a maximum of one dollar (\$1) per barrel, provided that the fee may only be raised by maximum increments of twenty-five cents (\$0.25) not more frequently than once every three months. The administrator shall raise the fee only upon making all of the following findings:

(1) There have been, or are existing, demands for expenditures from the fund for allowable purposes that have severely depleted or exhausted, or will severely deplete or exhaust, the fund.

(2) The Governor has requested the Treasurer to borrow the moneys and the Treasurer finds that the fee is insufficient for the Treasurer to borrow enough money to meet the reasonably anticipated demands on the fund for authorized expenditures, including providing moneys for the costs of response, containment, and cleanup of oil spills, damage assessment costs, wildlife rehabilitation, emergency loans, and damage claims, and to repay those borrowings, or the Treasurer finds that the fee is insufficient to repay and secure existing draws by the administrator on the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48 or borrowings by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1).

(3) Failure to raise the fee in the amount proposed will result in unmet or unpaid, authorized expenditures or noncompliance with any resolutions or contracts entered into in connection with obtaining the financial security pursuant to subdivision (o) of Section 8670.48 or borrowings by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1).

(b) At least 30 days prior to the day the increased fee shall be effective, the administrator shall inform the Legislature of his or her intent to raise the fee.

(c) Each incremental increase shall be effective until the later of (1) the delivery by the Treasurer of a certificate to the administrator as authorized

by subdivision (f) of Section 8670.53.3 or (2) the expiration date established by the administrator not to exceed one year. The increase may be renewed by the administrator before its expiration upon making the findings required by subdivision (a).

(d) It is the intent of the Legislature that the fund shall not be used for any purpose other than those set forth in this chapter.

SEC. 8. Section 8670.49 of the Government Code is amended to read:

8670.49. (a) (1) The administrator may only expend money from the fund to pay for any of the following, subject to the lien established in Section 8670.53.2:

(A) To pay the cost of obtaining financial security as authorized by paragraph (5) of subdivision (k) and subdivision (o) of Section 8670.48.

(B) To pay the principal, interest, premium, if any, and fees, charges, and costs of any kind incurred in connection with moneys drawn by the administrator on the financial security obtained by the Treasurer, or the moneys borrowed by the Treasurer, as authorized by paragraph (7) of subdivision (k) of Section 8670.48.

(C) To pay for the construction, equipping, operation, and maintenance of rescue and rehabilitation facilities, and technology development for oiled wildlife care from interest earned on money deposited in the fund as authorized by subdivision (l) of Section 8670.48.

(D) To pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as incurred by the network of oiled wildlife rescue and rehabilitation stations pursuant to subdivision (f) of Section 8670.37.5.

(E) To pay for the expansion, in the VTS area, pursuant to Section 445 of the Harbors and Navigation Code, of the vessel traffic service system (VTS system) authorized pursuant to subdivision (f) of Section 8670.21.

(2) If a spill has occurred, the administrator may expend the money in the fund for the purposes identified in paragraphs (1), (2), (3), (4), and (6) of subdivision (k) of Section 8670.48 only upon making the following determinations:

(A) Except as authorized by Section 8670.51.1, a responsible party does not exist or the responsible party is unable or unwilling to provide adequate and timely cleanup and to pay for the damages resulting from the spill. The administrator shall make a reasonable effort to have the party responsible remove the oil or agree to pay for any actions resulting from the spill that may be required by law, provided that the efforts are not detrimental to fish, plant, animal, or bird life in the affected waters. The reasonable effort of the administrator shall include attempting to access the responsible parties' insurance or other proof of financial responsibility.

(B) Sufficient federal oil spill funds are not available or will not be available in an adequate period of time.

(3) Notwithstanding any other provision of this subdivision, the administrator may expend money from the fund for authorized expenditures when a reimbursement procedure is in place to receive reimbursements for those expenditures from federal oil spill funds.

(b) Upon making the determinations specified in paragraph (2) of subdivision (a), the administrator shall immediately make whatever payments are necessary for responding to, containing, or cleaning up, the spill, including any wildlife rehabilitation required by law and payment of claims pursuant to Sections 8670.51 and 8670.51.1, subject to the lien established by Section 8670.53.2.

SEC. 9. Section 8670.50 of the Government Code is amended to read:

8670.50. (a) Money from the fund may only be expended to cover the costs incurred by the state and local governments and agencies for any of the following:

(1) Responding promptly to, containing, and cleaning up the discharge, if those efforts are any of the following:

(A) Undertaken pursuant to the state and local oil spill contingency plans established under this chapter, and the marine response element of the California oil spill contingency plan established under Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(B) Undertaken consistent with the standardized emergency management system established pursuant to Section 8607.

(C) Undertaken at the direction of the administrator.

(2) Meeting the requirements of Section 8670.61.5, relating to wildlife rehabilitation.

(3) Making the payments authorized by subdivision (k) of Section 8670.48.

(b) In the event of an oil spill, the administrator shall make whatever expenditures are necessary and appropriate from the fund to cover the costs described in subdivision (a), subject to the lien established pursuant to Section 8670.53.2.

SEC. 10. Section 8670.53.1 of the Government Code is amended to read:

8670.53.1. (a) Following an oil spill, the administrator, in consultation with the Treasurer, shall notify the Governor if the administrator determines that it is likely that there will not be sufficient moneys in the fund, including both projected revenues to the fund and the financial security obtained pursuant to subdivision (o) of Section 8670.48, to pay, in a timely manner, the expected costs permitted under this chapter.

(b) Following an oil spill, if the Treasurer has obtained financial security pursuant to subdivision (o) of Section 8670.48 in the form of a loan from the Pooled Money Investment Account, the Treasurer shall notify the Governor if the draws on the financial security will likely create a cashflow problem for the Pooled Money Investment Account that would require the loan to be repaid and replaced by borrowing from another source.

(c) Upon notification pursuant to subdivision (a) or (b), the Governor shall request that the federal government pay the cost for response, containment, cleanup, wildlife rehabilitation, and payment of damages. If sufficient federal funds are not available within five days, the Governor shall make a written request to the Treasurer to borrow and deposit in the fund the amount necessary, as determined by the administrator, to pay those

estimated excess response costs, including costs specified in paragraphs (1), (2), (3), (4), (6), and (8) of subdivision (k) of Section 8670.48, and, if necessary, to repay any draws upon the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48.

(d) The Governor, the Controller, the Treasurer, and the administrator shall immediately take whatever action is necessary and appropriate to ensure that the state has the ability to borrow the maximum additional amount necessary to carry out this chapter.

(e) The party responsible for the spill shall be liable to the state for all money borrowed by the Treasurer under this chapter, including draws on the financial security obtained pursuant to subdivision (o) of Section 8670.48, for the purpose of responding to the oil spill, including principal, interest, and premium, if any, and all associated fees, costs, and other charges incurred by the state in connection with that borrowing, whether or not all or a portion of the borrowed money has been repaid through the oil spill response fee or by federal funds.

(f) No funds available pursuant to this article may be expended for any activities which result in a net environmental enhancement. It is the intent of the Legislature that borrowed funds be expended solely for oil spill response, containment, cleanup, wildlife rehabilitation, and damages resulting from oil spills.

SEC. 11. Section 8670.53.2 of the Government Code is amended to read:

8670.53.2. Money borrowed pursuant to this chapter, including draws on the financial security obtained pursuant to subdivision (o) of Section 8670.48, shall be expended and repaid pursuant to Sections 8670.48 and 8670.49. So long as any of those borrowings are outstanding, fees and any other moneys in the fund are pledged to the repayment of the borrowings, to the extent provided in a resolution of the Pooled Money Investment Board in connection with a loan from the Pooled Money Investment Account or a resolution of issuance for any other borrowing arranged by the Treasurer. The pledge shall constitute a first lien and security interest, ratably with all other prior or subsequent borrowings unless the Treasurer provides in a resolution of issuance, that any borrowing shall constitute a junior lien, which shall immediately attach on the fees deposited in the fund, and shall be effective, binding, and enforceable against the state and any other person asserting rights therein without need of any physical delivery, recordation, filing, or other action.

SEC. 12. Section 8670.53.3 of the Government Code is amended to read:

8670.53.3. (a) For purposes of this section, the following definitions shall apply:

(1) “Bond” means any bond, note, commercial paper, bond anticipation note, or other evidence of indebtedness that the Treasurer is authorized to issue for purposes of this chapter.

(2) “Standby arrangement” means a line of credit, letter of credit, or other financial arrangement with a financial institution or lending entity that allows for ready access to money.

(b) To provide funds to pay for costs of an oil spill, as set forth in Section 8670.48, in excess of money in the fund as set forth in subdivision (a) of Section 8670.53.1, the Treasurer shall make necessary financial arrangements to obtain the additional money needed to pay those costs, and that borrowing shall be reimbursed or repaid from future deposits into the fund. The Treasurer may also enter any financial arrangement necessary or appropriate to refund any draw by the administrator pursuant to subdivision (o) of Section 8670.48, and that borrowing shall be reimbursed or repaid from future deposits into the fund. The financial arrangements may take the following forms, or any combination thereof:

(1) Establishment of one or more standby arrangements.

(2) Sale of bonds to provide funds for purposes of this chapter, to repay any prior drawings by the Treasurer on a standby arrangement or any drawings by the administrator on the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48, to repay money borrowed from the Pooled Money Investment Account, or to refund or extend any previously issued bonds.

(3) Borrowing from the Pooled Money Investment Account.

(4) Any other financial arrangement the Treasurer determines to be appropriate and cost effective.

(c) The Treasurer may enter into any financial arrangement authorized in subdivision (b) at any time, or from time to time, on a negotiated or competitive bid basis, as the Treasurer shall determine to be advisable.

(d) (1) The Governor, in any written request to the Treasurer pursuant to subdivision (c) of Section 8670.53.1, shall, to the extent feasible, state both of the following:

(A) The amount of funds needed each month over the period covered by the request.

(B) The estimated income to the fund each month from all sources that will be available to pay or retire any debt service or to pay any other expenses, fees, or costs incurred in connection with obligations issued pursuant to this chapter.

(2) The Governor may submit multiple requests to the Treasurer with respect to the same oil spill, or with respect to different oil spills. On receipt of a written request pursuant to this section, the Treasurer may draw on a standby arrangement, may use any other financial arrangement, or may issue bonds to provide funds not exceeding the amounts requested.

(e) Upon receipt of a written request for funds from the Governor, the following shall occur:

(1) The Treasurer shall convene a meeting of the Pooled Money Investment Board to obtain the funds through interim borrowing from the Pooled Money Investment Account except that no meeting is required where the request to borrow is for the purpose of repayment of a loan from the Pooled Money Investment Account.

(2) The Treasurer shall ensure that the funds will thereafter be available in accordance with a financing schedule mutually agreeable to the administrator and the Treasurer.

(f) This article does not require the Treasurer to borrow more money than can be repaid from amounts available to the fund for that purpose. The Treasurer shall not be required to consider as available to the fund any future deposits resulting from an increase of the fees specified in Section 8670.48.5 until that increase has actually become effective. Once effective, the administrator shall not retract, reduce, or reject the increase unless the Treasurer certifies to the administrator that the retraction, reduction, or rejection will not diminish the security for, or ability to repay, amounts borrowed under this article or drawn pursuant to subdivision (o) of Section 8670.48. The amount of borrowing that can be repaid from amounts available to the fund for that purpose shall be determined by the Treasurer in his or her sole discretion, giving due consideration to factors concerning security for, marketability of, and repayment of, any financial arrangements or other obligations that the Treasurer elects to make, incur, or issue for the purposes of complying with this chapter.

SEC. 13. Section 8670.53.4 of the Government Code is amended to read:

8670.53.4. (a) With the exception of borrowing from the Pooled Money Investment Account, which shall be on the terms determined by the Pooled Money Investment Board, the entry into or issuance of any financial arrangement pursuant to this article and obtaining the financial security pursuant to subdivision (o) of Section 8670.48, including the issuance of bonds, or other obligations, shall be authorized by a resolution adopted by the Treasurer. Any of these financial arrangements, including bonds or other obligations, (1) may be negotiable, (2) may be payable to order or to the bearer, (3) may be in any denomination, (4) shall be payable not later than 20 years from the date of issuance, (5) may bear interest at a fixed or variable rate or rates to be determined as provided by the resolution and payable as provided therein, (6) may be payable on a fixed date or upon demand of the holder, (7) may be made subject to the prepayment or redemption at the option of the state or at the option of the holder, and (8) may contain such other terms as the Treasurer may determine to be necessary and appropriate.

(b) In connection with any financial arrangement made or issued by the Treasurer pursuant to this chapter, including the issuance of bonds or other obligations, the Treasurer may obtain or arrange for any insurance, letter of credit, or other credit enhancement or liquidity arrangements as the Treasurer determines to be appropriate and cost effective, and may enter into any contracts or agreements for those arrangements not inconsistent with this chapter.

(c) Proceeds of any borrowing authorized pursuant to this chapter, including from the issuance of any bonds, other obligations, or drawings on any standby arrangement or other financial arrangements, shall be deposited in the fund.

(d) Any bonds or other obligations issued under this chapter may be secured by a trust agreement or indenture by and between the state and a trustee. The trustee may be the Treasurer or a bank or trust company chartered under the laws of this state or of the United States and designated by the Treasurer.

(e) The Treasurer may provide for the issuance and sale or exchange of refunding bonds for the purpose of redeeming, retiring, or purchasing for retirement, outstanding bonds at or before their maturity, if the Treasurer and the administrator determines that refunding is necessary or advisable in order to do either of the following:

- (1) To effect a favorable reorganization of the debt structure of the bonds.
- (2) To effect a saving in debt service cost, as measured by the present value of that saving.

SEC. 14. Section 8670.53.5 of the Government Code is amended to read:

8670.53.5. Any financial arrangements made or issued pursuant to this article or subdivision (o) of Section 8670.48, including the issuance of bonds or other obligations, and the repayment of any of these obligations, shall be special obligations of the state secured solely by the moneys in the fund. None of these financial arrangements, including bonds or other obligations, shall be or become a lien, charge, or liability against the State of California or against its property or funds except to the extent of the pledges expressly made by this article. Each of these financial arrangements, including bonds or other obligations, shall contain a recital stating that neither the payment of the principal thereof, nor any interest thereon, constitutes a debt, liability, or general obligation of the State of California other than as provided in this article, and neither the faith and credit nor the taxing power of the state are pledged to the repayment thereof.

SEC. 15. Section 8670.53.7 of the Government Code is amended to read:

8670.53.7. (a) All financial arrangements made or issued pursuant to this article or subdivision (o) of Section 8670.48, including bonds or other obligations, are a legal investment for any of the following:

- (1) Trust funds.
- (2) Funds of insurers.
- (3) Funds of savings and loan associations.
- (4) Funds of banks.
- (5) Funds of state agencies, cities, counties, cities and counties, or other public agencies or corporations.

(b) All financial arrangements, made or issued pursuant to this article or subdivision (o) of Section 8670.48, including bonds or other obligations, are acceptable and may be used as security for the faithful performance of any public or private trust or obligation or for the performance of any act, including the use of notes by banks as security for deposits of funds of the state and its agencies, or of any city, county, city and county, or other public agency or corporation.

SEC. 16. Section 8670.53.8 of the Government Code is amended to read:

8670.53.8. Notwithstanding Section 13340, there is hereby appropriated from the fund, without regard to fiscal years, any and all moneys necessary to pay principal, interest, premium, if any, and fees, costs, or charges of any kind incurred by the state under or in connection with any standby arrangement, or other financial arrangement, including bonds or other obligations, made or issued pursuant to this article and pursuant to subdivision (o) of Section 8670.48, or any rebate penalty, or other payment necessary to maintain the federal tax-exempt status of that financial arrangement, including bonds or other obligations. The Treasurer shall advise the administrator and the Controller of amounts necessary to pay the principal, interest, premiums, fees, costs, or charges on any of those arrangements or obligations made or issued pursuant to this article and subdivision (o) of Section 8670.48, and those amounts shall not be available for expenditure for other purposes.

SEC. 17. Section 8670.53.95 of the Government Code is amended to read:

8670.53.95. Section 10295 and Sections 10336 to 10381, inclusive, of the Public Contract Code shall not apply to agreements entered into by the Treasurer in connection with making or issuing of any financial arrangements, including the issuance of bonds or other obligations, authorized by this article or by subdivision (o) of Section 8670.48.

SEC. 18. Section 8670.56.7 of the Government Code is repealed.

SEC. 19. Section 46054 of the Revenue and Taxation Code is amended to read:

46054. (a) The board shall notify the feepayers that, as of the first of the month following the notification, no fee shall be imposed whenever the administrator, in consultation with the board, and with the approval of the Treasurer, determines that the amount in the Oil Spill Response Trust Fund, collected pursuant to Section 46052, is equal to the amount specified in subdivision (a) of Section 46012, and the collection of the fee is not required for any of the following purposes:

(1) The purposes specified in subdivision (k) of Section 8670.48 of the Government Code.

(2) To repay any draw on a financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48 of the Government Code, including any principal, interest, premium, fees, charges, or costs of any kind incurred in connection with that financial security.

(3) To repay any borrowing by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1) of Chapter 7.4 of Division 1 of Title 2 of the Government Code, including any principal, interest, premium, fees, charges, or costs of any kind incurred in connection with that borrowing.

(b) Whenever the fee has ceased to be imposed in accordance with subdivision (a), the administrator may direct the board to resume collection of the fee, if the administrator, in consultation with the board, pursuant to

paragraph (1) of subdivision (f) of Section 8670.48 of the Government Code, makes one of the following determinations:

(1) The amount in the Oil Spill Response Trust Fund is less than or equal to 95 percent of the amount specified in subdivision (a) of Section 46012.

(2) Additional money is required for the purposes specified in subdivision (k) of Section 8670.48 of the Government Code.

(3) That revenue is necessary to repay any draw on a financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48 of the Government Code or any borrowing by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1) of the Government Code, including any principal, interest, premium, fees, charges, or costs of any kind incurred in connection with those borrowings or that financial security.

(c) If the administrator directs the board to resume collection of the fee, the board shall notify the fee payers, upon the first of the month following the notification, that the fee will be imposed.

SEC. 20. Section 46653 of the Revenue and Taxation Code is amended to read:

46653. (a) Except as provided in subdivision (c), the administrator shall direct the board to provide refunds of the excess money whenever the administrator makes both of the following determinations:

(1) The administrator determines, pursuant to subdivision (i) of Section 8670.48 of the Government Code, that the total amount in the Oil Spill Response Trust Fund, collected pursuant to Section 46052, exceeds the total of the amount specified in subdivision (a) of Section 46012.

(2) The administrator determines additional collection is not necessary to provide for the purposes specified in paragraphs (1) to (6), inclusive, and paragraph (8), of subdivision (k) of Section 8670.48 of the Government Code or to repay any draw upon the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48 of the Government Code or money borrowed pursuant to Article 7.5 (commencing with Section 8670.53.1) of Chapter 7.4 of Division 1 of Title 2 of the Government Code, including principal, interest, premium, fees, charges, or costs of any kind incurred in connection with those borrowings or that financial security.

(b) The board, as directed by the administrator pursuant to subdivision (a), shall refund the excess money in that fund to each person who paid the fee to the state in proportion to the amount that person paid into the fund during the preceding 12 monthly reporting periods in which there was a fee due, including the month in which the fund exceeded the amount specified in subdivision (a) of Section 46012.

(c) If the amount of money in the fund exceeds the amount specified in this section by 10 percent or less, the administrator is not required to order refunds pursuant to this section.

(d) Nothing in this section shall require the refund of excess fees more frequently than once each year.

SEC. 21. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to resolve existing statutory ambiguities and to ensure that the financial security obtained by the Treasurer for an oil spill response is valid obligation secured by the state's authority to issue bonds, and that the funds necessary to respond to an oil spill are available, thereby protecting public health and safety and the environment, it is necessary that this act take effect immediately.

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